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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/842,754	04/26/2001	Richard A. Pineau	8410 (OL)	8266

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POLAROID CORPORATION
PATENT DEPARTMENT
1265 MAIN STREET
WALTHAM, MA 02451

EXAMINER

NGUYEN, TRONG NHAN P

ART UNIT	PAPER NUMBER
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2152

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/842,754

Applicant(s)

PINEAU ET AL.

Examiner

Jack P Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 26-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 and 29-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 26-28 are subject to restriction and/or election requirement.
1-31

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 09082002.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claims 1-31 are being examined.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Group 1: Claims 1-25 and 29-31 are drawn to a method for accessing and transmitting data at remote server in 709, subclass 219.
- II. Group 2: Claims 26-28 are drawn to a method for user interface that permits the user to observe and control the specific function of the individual components in class 345, subclass 735.

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. Invention I has a separate utility such as in a system lacking user interface that permits the user to observe and control the specific function of the individual components. Invention II has a separate utility such as in a system lacking for accessing and transmitting data at remote server. See MPEP § 806.05(d).

These inventions are distinct for the reasons given above, and the search required for each Group is different and not co-extensive for examination purpose. For example, the searches for the two inventions would not be co-extensive because these

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groups would require different searches on PTO's classification class and subclass as following:

(a) Group I search (claims 1-25 and 29-31) would require use of search **Class 709, subclass 219**.

(b) Group II search (claims 26-28) would require use of search **Class 345, subclass 735**.

A telephone call was conducted with Mr. Gaetano MacCarone, the applicant's representative, on September 23, 2004 to address a possibility of restriction requirement. The applicant chose an election of Group I, which is, claims 1-25 and 29-31, with traverse.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claims 26-28 are withdrawn from consideration.

Claims 1-25 and 29-31 are now presented for examination.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 14 recites the limitation "entering items into a data structure" – "items" is rendered indefinite since items could be of any nature or device. There is insufficient antecedent basis for this limitation in the claim. Examiner takes "items" to mean image data items.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 7-21, 23-28, and 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Steinberg et al, WO 00/01138 (Steinberg hereafter).

As per claim 1, Steinberg teaches a method of transmitting to a remote node (18, fig. 1, page 6, lines 16-18; server) in a data communications network (16, fig. 1), digital images from an image data source (12, fig. 1; digital camera), comprising the steps of: accessing and transferring one image or a plurality of images from the image data source (abstract); providing the customer a specific apparatus (10, fig. 1, page 6, line 14), said apparatus having identifying information stored in a memory thereof; transmitting, receiving and storing, at the remote node of the data communications network, said image or plurality of images and said identifying information (page 8, lines

27-34; *account number identifies the user in the system*). Steinberg does not specifically teach automatically determining a closest entry point into the data communications network. However, it is well known in the art to pre-program local Internet Service Provider (ISP) telephone numbers in memory for quick automatic dialing to connect to the network. One of ordinary skill in the art would have been motivated to choose local entry points to the network to save time and cost and also reduce the risks of network interruption after network connection.

As per claim 3, Steinberg teaches using satellite communications in the system (page 7, line 32). Steinberg does not teach using GPS to determine the entry point. However, it is well known in the art to use GPS to determine the locality of position. It would have been obvious to one of ordinary skill in the art to use GPS because of its highly accurate results and increasing low cost to use.

As per claim 7, Steinberg teaches the automatic transmission of the image or plurality of images from the apparatus to the remote node of the communication network (page 12, lines 24-29). Steinberg does not specifically teach upon detecting an interrupting signal and re-attempting transmission after a waiting period following an interruption. However, Steinberg teaches the system automatically attempts to re-connect with the remote server after a connection fails to establish (page 17, lines 13-14). Hence, it would have been obvious to one of ordinary skill in the art to be motivated to attempt a re-connection with the remote server at a later time after an

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interruption of service in order to complete the data transmission when the data line is not busy or heavily used.

As per claim 8, Steinberg teaches the system attempts to check at regular intervals to determine whether the remote node is connected and ready to receive data (page 18, lines 20-21 and 24-26). Once the two systems are in sync with each other, the device sends data images to the remote node for display, storage, print or share as addressed in above claims and also further disclosed on page 20, lines 9-14.

As per claims 2, 4, 5, 11, 13-17, and 19-21 are rejected for the similar reasons as claim 1 addressed above.

Claims 9, 10, 12, 24, and 31 are rejected for similar reasons as claim 8 addressed above.

As per claims 18 and 25, Steinberg teaches means for installing operating files in said apparatus (page 6, lines 29-33).

Claim 19 is rejected for the similar reasons as claim 3 addressed above.

Claims 23 and 30 are rejected for the similar reasons as claim 7 addressed above.

Claims 6, 22, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Steinberg in view of Kawaga et al, 5,995,239 (Kagawa hereafter).

As per claim 6, Steinberg does not teach the plurality of transmission rates of data images between the system and the remote node. However, Kawaga teaches when data is transmitted successfully, the system increases the transmission rate to increase the mean transmission rate. However, when an error occurs in received image data or when the condition of the network is poor, the system will decrease the transmission rate. The rate is shifted up again if the image data is free from errors or if the circuit condition is desirable (col. 12, lines 6-14). Hence, it would have been obvious to one of ordinary skill in the art to be motivated to introduce an alternative or obvious modification of Kawaga teachings to enhance the communication rate and reliability of data transmission as disclosed in col. 12, lines 14-16.

Claims 22 and 29 are rejected for similar reasons as claim 6 addressed above.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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- Wang et al, 6,167,469 ; Yoshida, 4,829,524 ; Divincenzo et al, 5,799,219 ;
Nishikawa, 6,032,180 ; Ito, 6,381,660 ; Safai et al, 6,167,469

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack P Nguyen whose telephone number is (703) 605-4299. The examiner can normally be reached on M-F 8:30-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (703) 305-4792. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jpn



Dung C. Dinh
Primary Examiner